

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

RONALD D. SMITH,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:09CV01949AGF
	)	
ST. LOUIS FIRE DEPARTMENT,	)	
	)	
Defendant.	)	

**MEMORANDUM AND ORDER**

This matter is before the Court upon its own motion. Rule 4(m) of the Federal Rules of Civil Procedure states, "If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant." Plaintiff has failed to serve defendant within 120 days of the filing of the complaint.

This case was filed on November 25, 2009. By Order dated March 3, 2010, Plaintiff was advised of the need to obtain service by March 25, 1010. The Court thereafter granted Plaintiff sixty (60) additional days, to and including May 24, 2010, to obtain service, and advised Plaintiff that failure to obtain service would result in the dismissal of Plaintiff's claims without prejudice. In response to a memorandum filed by Plaintiff suggesting he was going to request a waiver of service, the Court, once again, granted Plaintiff additional time, to and including June 4, 2010, to file proof either that Defendant had been served or that Plaintiff had complied with the requirements of Federal Rule of Civil Procedure 4(d) to

request a waiver of service. The Court further advised Plaintiff that absent the filing of such proof by June 4, 2010, the case would be dismissed without prejudice. No proof of service has been filed by Plaintiff. As a result, the Court will dismiss this action without prejudice.

Accordingly,

**IT IS HEREBY ORDERED** that this case is **DISMISSED** without prejudice.

Dated this 10th day of June, 2010.

  
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UNITED STATES DISTRICT JUDGE